

BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000-14th STREET, N.W., SUITE 420
WASHINGTON, D.C. 20009
(202) 671-0550

IN THE MATTER OF)	DATE: October 7, 2003
)	
Beverly J. Wilbourn)	DOCKET NO.: 03F-033
Member)	
Board of Dietetics and Nutrition)	
1615 Myrtle Street, NW)	
Washington, DC 20012)	

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (hereinafter OCF) Office of General Counsel following a determination by its Public Information Records Management Division, that pursuant to the D.C. Code §1-1106.02 (2001 Edition), Beverly J. Wilbourn, Member, Board of Dietetics and Nutrition (Board), failed to timely file, a Financial Disclosure Statement for calendar year 2002, on or before May 15, 2003 as required by D.C. Official Code §1-1106.02 and also failed to file on or before the OCF sanctioned extended filing deadline of June 19, 2003.

By Notices of Hearing, Statements of Violations and Orders of Appearance dated August 6, 2003 and August 15, 2003, OCF ordered Beverly J. Wilbourn (hereinafter respondent), to appear at scheduled hearings on August 15, 2003 and August 27, 2003 and show cause why she should not be found in violation of the D.C. Campaign Finance Reform and Conflict of Interest Act of 1974, as amended by D.C. Official Code §§1-1101.01 et seq., and fined accordingly.

Summary of Evidence

OCF alleges that the respondent failed to timely file the statutorily required Financial Disclosure Statement for calendar year 2002, on or before June 19, 2003.

On September 2, 2003, OCF received an affidavit from respondent stating she was not aware of her requirement to file a Financial Disclosure Statement (FDS) relative to her Board membership as she filed other financial disclosures this year with OCF associated with her 2002 campaign for member of the City Council At-Large. Respondent stated she misunderstood the need to file an additional FDS, and failed to

IN THE MATTER OF: Beverly J. Wilbourn

Page 2

investigate her misunderstandings timely. Respondent further asserted it was unclear initially whether she had been appointed to the Board. Respondent filed an amended FDS on September 2, 2003 to cover her Board membership.

Findings of Fact

Having reviewed the allegations and the record herein, I find:

1. Respondent timely filed a Financial Disclosure Statement in May 2002 for calendar year 2001.
2. Respondent was required to file a Financial Disclosure Statement with OCF for calendar year 2002, on or before June 19, 2003.
3. Respondent filed an amended Financial Disclosure Statement with OCF on September 2, 2003.
4. Respondent asserted she was not aware of the requirement to file in her capacity as Board member in view of her previous FDS filing this year associated with her 2002 campaign for member of the City Council At-Large.
5. Respondent appears to have confused the filing of a Report of Receipts and Expenditures earlier this year with the filing of a Financial Disclosure Statement.
6. Respondent asserted that her appointment to the Board was initially unclear.
7. Respondent further asserted that her misunderstanding of the filing requirement relative to the Board position was not pursued timely with OCF.
8. OCF provided notice to file if the filer ceases to serve prior to May 15th of any year, and within 30 days of any change in information on its Financial Disclosure Statement form.
9. Respondent has no history of prior filing delinquencies.
10. Respondent's explanation for the filing delinquency is credible in that she was uncertain as to her appointment to the Board; consequently, respondent believed she was not required to file a Financial Disclosure Statement with OCF relative to her Board membership.
11. Respondent is currently in compliance with the statute.

Conclusions of Law

Based upon the record provided by OCF, I therefore conclude:

1. Respondent violated D.C. Official Code §1-1106.02.
2. The penalty established at D.C. Official Code §1-1103.05(b)(3), and 3DCMR §§3711.2(aa), 3711.2 and 3711.4 for failure to timely file a Financial Disclosure Statement required by D.C. Official Code §1-1106.02 is a fine of \$50.00 per day for each business day subsequent to the due date.
3. In accordance with D.C. Official Code §1-1103.05(b)(3), the respondent may be fined a maximum of \$2,000.00 for failing to timely file a Financial Disclosure Statement.
4. For good cause shown pursuant to 3DCMR §3711.6, the Director of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.
5. Respondent's explanation for failing to timely file constitutes good cause for suspension of the fine.

Recommendation

In view of the foregoing and information included in the record, I hereby recommend that the Director suspend the imposition of the fine in this matter.

Date

Jean Scott Diggs
Hearing Officer

Concurrence

In view of the foregoing, I hereby concur with the Recommendation.

Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that the fine in this matter be hereby suspended.

Date

Cecily E. Collier-Montgomery
Director

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order.

Rose Rice
Legal Assistant

NOTICE

Pursuant to 3DCMR §3711.5 (1999), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000-14th Street, N.W., Washington, D.C. 20009.